

**CHILD WELFARE AMENDMENTS**

2007 GENERAL SESSION

STATE OF UTAH

**Chief Sponsor: Merlynn T. Newbold**

Senate Sponsor: Allen M. Christensen

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**LONG TITLE**

**General Description:**

This bill amends the Utah Human Services Code and the Judicial Code in order to comply with federal requirements, including those contained in The Adam Walsh Child Protection and Safety Act of 2006 and the Safe and Timely Interstate Placement of Foster Care Children Act of 2006, and to make corrections to certain child welfare provisions.

**Highlighted Provisions:**

This bill:

- ▶ amends the background check procedures of the Office of Licensing, within the Department of Human Services, as they relate to background checks conducted for the purpose of licensing a prospective foster home or approving a prospective adoptive placement of a child in state custody;

- ▶ requires that before a prospective foster home is licensed, and before a child in state custody is placed with a prospective foster parent or a prospective adoptive parent, the Department of Human Services shall check the child abuse and neglect registry of each state where the prospective foster parent, prospective adoptive parent, or an adult residing in the home of the prospective foster parent or prospective adoptive parent, resided during the five years immediately preceding placement of the child;

- ▶ permits the information within the Management Information System, maintained by the Division of Child and Family Services, within the Department of Human Services, to be disclosed for the purpose of:

- complying with an abuse and neglect registry check requested by another state;

30 and

- 31           • complying with the federal requirements for maintaining an electronic national
- 32 registry of substantiated cases of child abuse and neglect;
- 33           ▶ provides for the recognition within Utah of home studies conducted outside of Utah;
- 34           ▶ amends the background check procedures for direct service workers when a child in
- 35 the legal custody of the Department of Human Services, or a division of the
- 36 department, is placed with the direct service worker;
- 37           ▶ requires a court to consider appropriate in-state and out-of-state placements for a
- 38 child who is removed from the custody of the child's parents;
- 39           ▶ describes the entitlement or right of a child and others to be given notice of, to be
- 40 present at, and to be heard at, each hearing and proceeding in an abuse, neglect, or
- 41 dependency case;
- 42           ▶ amends background check requirements for preplacement adoptive evaluations; and
- 43           ▶ makes technical changes.

44 **Monies Appropriated in this Bill:**

45           None

46 **Other Special Clauses:**

47           None

48 **Utah Code Sections Affected:**

49 AMENDS:

50           **62A-2-120**, as last amended by Chapters 57 and 77, Laws of Utah 2006

51           **62A-2-121**, as last amended by Chapter 77, Laws of Utah 2006

52           **62A-4a-1003**, as renumbered and amended by Chapter 77, Laws of Utah 2006

53           **62A-5-103.5**, as last amended by Chapter 77, Laws of Utah 2006

54           **78-3a-307.1**, as last amended by Chapter 329, Laws of Utah 1997

55           **78-3a-312**, as last amended by Chapter 286, Laws of Utah 2005

56           **78-3a-314**, as last amended by Chapter 120, Laws of Utah 2001

57           **78-30-3.5**, as last amended by Chapters 121 and 122, Laws of Utah 2004

58 78-30-3.6, as enacted by Chapter 101, Laws of Utah 2001

59 ENACTS:

60 62A-4a-710, Utah Code Annotated 1953

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62 *Be it enacted by the Legislature of the state of Utah:*

63 Section 1. Section 62A-2-120 is amended to read:

64 **62A-2-120. Criminal background checks -- Direct access to children or**  
65 **vulnerable adults.**

66 (1) (a) Except as provided in Subsection (7), an applicant for an initial license or a  
67 license renewal under this chapter shall submit to the office the names and other identifying  
68 information, which may include fingerprints, of all persons associated with the licensee, as  
69 defined in Section 62A-2-101, with direct access to children or vulnerable adults.

70 (b) The Criminal Investigations and Technical Services Division of the Department of  
71 Public Safety, or the office as authorized under Section 53-10-108, shall process the  
72 information described in Subsection (1)(a) to determine whether the individual has been  
73 convicted of any crime.

74 (c) Except as provided in Subsection (1)(d), if an individual has not continuously lived  
75 in Utah for the five years immediately preceding the day on which the information referred to  
76 in Subsection (1)(a) is submitted to the office, the individual shall submit fingerprints for a FBI  
77 national criminal history record check. The fingerprints shall be submitted to the FBI through  
78 the Criminal Investigations and Technical Services Division.

79 (d) An individual is not required to comply with Subsection (1)(c) if:

80 (i) the individual continuously lived in Utah for the five years immediately preceding  
81 the day on which the information described in Subsection (1)(a) is submitted to the office,  
82 except for time spent outside of the United States and its territories[-]; and

83 (ii) the background check of the individual is being conducted for a purpose other than  
84 a purpose described in Subsection (1)(f).

85 (e) If an applicant described in Subsection (1)(a) spent time outside of the United

86 States and its territories [~~at any time~~] during the five years immediately preceding the day on  
87 which the information described in Subsection (1)(a) is submitted to the office, the office shall  
88 require the applicant to submit documentation establishing whether the applicant was convicted  
89 of a crime during the time that the applicant spent outside of the United States and its  
90 territories.

91 (f) Notwithstanding any other provision of this Subsection (1), an applicant described  
92 in Subsection (1)(a) shall submit fingerprints for an FBI national criminal history records  
93 check, through the Criminal Investigations and Technical Services Division, if the background  
94 check of the applicant is being conducted for the purpose of:

95 (i) licensing a prospective foster home; or

96 (ii) approving a prospective adoptive placement of a child in state custody.

97 (g) In addition to the other requirements of this section, if the background check of an  
98 applicant described in Subsection (1)(a) is being conducted for the purpose of licensing a  
99 prospective foster home or approving a prospective adoptive placement of a child in state  
100 custody, the office shall:

101 (i) check the child abuse and neglect registry in each state where each prospective  
102 foster parent or prospective adoptive parent resided in the five years immediately preceding the  
103 day on which the prospective foster parent or prospective adoptive parent applied to be a foster  
104 parent or adoptive parent, to determine whether the prospective foster parent or prospective  
105 adoptive parent is listed in the registry as having a substantiated or supported finding of child  
106 abuse or neglect; and

107 (ii) check the child abuse and neglect registry in each state where each adult living in  
108 the home of the prospective foster parent or prospective adoptive parent described in  
109 Subsection (1)(g)(i) resided in the five years immediately preceding the day on which the  
110 prospective foster parent or prospective adoptive parent applied to be a foster parent or  
111 adoptive parent, to determine whether the adult is listed in the registry as having a substantiated  
112 or supported finding of child abuse or neglect.

113 ~~(f)~~ (h) The office shall make rules, in accordance with Title 63, Chapter 46a, Utah

114 Administrative Rulemaking Act, to implement the provisions of this Subsection (1).  
115 (2) The office shall approve a person for whom identifying information is submitted  
116 under Subsection (1) to have direct access to children or vulnerable adults in the licensee  
117 program if:  
118 (a) (i) the person is found to have no criminal history record; or  
119 (ii) (A) the only convictions in the person's criminal history record are misdemeanors  
120 or infractions not involving any of the offenses described in Subsection (3); and  
121 (B) the date of the last conviction under Subsection (2)(a)(ii)(A) is more than five years  
122 before the date of the search;  
123 (b) the person is not listed in the statewide database of the Division of Aging and Adult  
124 Services created by Section 62A-3-311.1;  
125 (c) juvenile court records do not show that a court made a substantiated finding, under  
126 Section 78-3a-320, that the person committed a severe type of child abuse or neglect;  
127 (d) the person is not listed in the Licensing Information System of the Division of  
128 Child and Family Services created by Section 62A-4a-1006; ~~and~~  
129 (e) the person has not pled guilty or no contest to a pending charge for any:  
130 (i) felony;  
131 (ii) misdemeanor listed in Subsection (3); or  
132 (iii) infraction listed in Subsection (3)[-]; and  
133 (f) for a person described in Subsection (1)(g), the registry check described in  
134 Subsection (1)(g) does not indicate that the person is listed in a child abuse and neglect registry  
135 of another state as having a substantiated or supported finding of child abuse or neglect.  
136 (3) ~~Unless~~ Except as provided in Subsection (8), unless at least ten years have passed  
137 since the date of conviction, the office may not approve a person to have direct access to  
138 children or vulnerable adults in the licensee's human services program if that person has been  
139 convicted of an offense, whether a felony, misdemeanor, or infraction, that is:  
140 (a) identified as a sexual offense, domestic violence, lewdness, assault, or battery;  
141 (b) a violation of any pornography law, including sexual exploitation of a minor;

- 142 (c) prostitution;
- 143 (d) included in:
- 144 (i) Title 76, Chapter 5, Offenses Against the Person;
- 145 (ii) Title 76, Chapter 5a, Sexual Exploitation of Children; or
- 146 (iii) Title 76, Chapter 7, Offenses Against the Family; ~~[or]~~
- 147 (e) a violation of Section 76-6-103, aggravated arson;
- 148 (f) a violation of Section 76-6-203, aggravated burglary;
- 149 (g) a violation of Section 76-6-302, aggravated robbery; or
- 150 ~~[(e)]~~ (h) a conviction [in: (i) (A) another state, territory, or district of the United States;
- 151 ~~or (B) a federal court of the United States; and (ii)]~~ for an offense committed outside of
- 152 the state that, if committed in the state, would constitute a violation of an offense described in
- 153 ~~[Subsection]~~ Subsections (3)(d) through (g).

154 (4) (a) ~~[H]~~ Except as provided in Subsection (8), if a person for whom identifying  
 155 information is submitted under Subsection (1) is not approved by the office under Subsection  
 156 (2) or (3) to have direct access to children or vulnerable adults in the licensee program, the  
 157 office shall conduct a comprehensive review of criminal and court records and related  
 158 circumstances if the reason the approval is not granted is due solely to one or more of the  
 159 following:

- 160 (i) a conviction for:
- 161 (A) any felony not listed in Subsection (3);
- 162 (B) any misdemeanor or infraction, not listed in Subsection (3), within five years of the
- 163 date of the search;
- 164 (C) a protective order or ex parte protective order violation under Section 76-5-108 or
- 165 a similar statute in another state; or
- 166 (D) any felony, misdemeanor, or infraction listed in Subsection (3) if at least ten years
- 167 have passed since the date of conviction;
- 168 (ii) a plea of guilty or no contest to a pending:
- 169 (A) felony;

170 (B) misdemeanor [~~not~~] listed in Subsection (3); or  
171 (C) infraction [~~not~~] listed in Subsection (3);  
172 (iii) the person is listed in the statewide database of the Division of Aging and Adult  
173 Services created by Section 62A-3-311.1;  
174 (iv) juvenile court records show that a court made a substantiated finding, under  
175 Section 78-3a-320, that the person committed a severe type of child abuse or neglect; [~~or~~]  
176 (v) the person is listed in the Licensing Information System of the Division of Child  
177 and Family Services created by Section 62A-4a-1006[-]; or  
178 (vi) the person is listed in a child abuse or neglect registry of another state as having a  
179 substantiated or supported finding of child abuse or neglect.  
180 (b) The comprehensive review under Subsection (4)(a) shall include an examination of:  
181 (i) the date of the offense or incident;  
182 (ii) the nature and seriousness of the offense or incident;  
183 (iii) the circumstances under which the offense or incident occurred;  
184 (iv) the age of the perpetrator when the offense or incident occurred;  
185 (v) whether the offense or incident was an isolated or repeated incident;  
186 (vi) whether the offense or incident directly relates to abuse of a child or vulnerable  
187 adult, including:  
188 (A) actual or threatened, nonaccidental physical or mental harm;  
189 (B) sexual abuse;  
190 (C) sexual exploitation; and  
191 (D) negligent treatment;  
192 (vii) any evidence provided by the person of rehabilitation, counseling, or psychiatric  
193 treatment received, or additional academic or vocational schooling completed, by the person;  
194 and  
195 (viii) any other pertinent information.  
196 (c) At the conclusion of the comprehensive review under Subsection (4)(a), the office  
197 shall approve the person who is the subject of the review to have direct access to children or

198 vulnerable adults, unless it finds that approval will likely create a risk of harm to a child or  
199 vulnerable adult.

200 (d) In accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act, the  
201 office may make rules, consistent with this chapter, defining procedures for the comprehensive  
202 review described in this Subsection (4).

203 (5) (a) For purposes of this Subsection (5), "directly supervised" means that the person  
204 being supervised is under the uninterrupted visual and auditory surveillance of the person doing  
205 the supervising.

206 (b) A licensee may not permit any person to have direct access to a child or a  
207 vulnerable adult unless, subject to Subsection (5)(c), that person is:

208 (i) associated with the licensee and:

209 (A) approved by the office to have direct access to children or vulnerable adults under  
210 this section; or

211 (B) (I) the office has not determined whether to approve that person to have direct  
212 access to children or vulnerable adults;

213 (II) the information described in Subsection (1)(a), relating to that person, is submitted  
214 to the department; and

215 (III) that person is directly supervised by a person associated with the licensee who is  
216 approved by the office to have direct access to children or vulnerable adults under this section;

217 (ii) (A) not associated with the licensee; and

218 (B) directly supervised by a person associated with the licensee who is approved by the  
219 office to have direct access to children or vulnerable adults under this section;

220 (iii) the parent or guardian of the child or vulnerable adult; or

221 (iv) a person approved by the parent or guardian of the child or vulnerable adult to  
222 have direct access to the child or vulnerable adult.

223 (c) Notwithstanding Subsection (5)(b), a person may not have direct access to a child  
224 or a vulnerable adult if that person is prohibited by court order from having that access.

225 (6) (a) Within 30 days after receiving the identifying information for a person under

226 Subsection (1), the office shall give written notice to the person and to the licensee or applicant  
227 with whom the person is associated of:

- 228 (i) the office's decision regarding its background screening clearance and findings; and
- 229 (ii) a list of any convictions found in the search.

230 (b) With the notice described in Subsection (6)(a), the office shall also give to the  
231 person the details of any comprehensive review conducted under Subsection (4).

232 (c) If the notice under Subsection (6)(a) states that the person is not approved to have  
233 direct access to children or vulnerable adults, the notice shall further advise the persons to  
234 whom the notice is given that either the person or the licensee or applicant with whom the  
235 person is associated, or both, may, under Subsection 62A-2-111(2), request a hearing in the  
236 department's Office of Administrative Hearings, to challenge the office's decision.

237 (d) In accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act, the  
238 office shall make rules, consistent with this chapter:

239 (i) defining procedures for the challenge of its background screening decision  
240 described in this Subsection (6); and

241 (ii) expediting the process for renewal of a license under the requirements of this  
242 section and other applicable sections.

243 (7) Notwithstanding Subsection (1)(a), this section does not apply to an applicant for  
244 an initial license, or license renewal, to operate a substance abuse [treatment] program that  
245 provides services to adults only.

246 (8) (a) Notwithstanding Subsections (2) through (4), the office may not approve or  
247 license a person as a prospective foster parent or a prospective adoptive parent if the person has  
248 been convicted of:

249 (i) a felony involving conduct that constitutes any of the following:

250 (A) child abuse, as described in Section 76-5-109;

251 (B) commission of domestic violence in the presence of a child, as described in Section  
252 76-5-109.1;

253 (C) abuse or neglect of a disabled child, as described in Section 76-5-110;

- 254 (D) endangerment of a child, as described in Section 76-5-112.5;
- 255 (E) aggravated murder, as described in Section 76-5-202;
- 256 (F) murder, as described in Section 76-5-203;
- 257 (G) manslaughter, as described in Section 76-5-205;
- 258 (H) child abuse homicide, as described in Section 76-5-208;
- 259 (I) homicide by assault, as described in Section 76-5-209;
- 260 (J) kidnapping, as described in Section 76-5-301;
- 261 (K) child kidnapping, as described in Section 76-5-301.1;
- 262 (L) aggravated kidnapping, as described in Section 76-5-302;
- 263 (M) an offense described in Title 76, Chapter 5, Part 4, Sexual Offenses;
- 264 (N) an offense described in Title 76, Chapter 5a, Sexual Exploitation of Children;
- 265 (O) aggravated arson, as described in Section 76-6-103;
- 266 (P) aggravated burglary, as described in Section 76-6-203;
- 267 (Q) aggravated robbery, as described in Section 76-6-302; or
- 268 (R) domestic violence, as described in Section 77-36-1; or
- 269 (ii) an offense committed outside the state that, if committed in the state, would  
270 constitute a violation of an offense described in Subsection (8)(a)(i).
- 271 (b) Notwithstanding Subsections (2) through (4), the office may not approve or license  
272 a person as a prospective foster parent or a prospective adoptive parent if, within the five years  
273 immediately preceding the day on which the person would otherwise be approved or licensed,  
274 the person has been convicted of a felony involving conduct that constitutes any of the  
275 following:
- 276 (i) aggravated assault, as described in Section 76-5-103;
- 277 (ii) aggravated assault by a prisoner, as described in Section 76-5-103.5;
- 278 (iii) mayhem, as described in Section 76-5-105;
- 279 (iv) an offense described in Title 58, Chapter 37, Utah Controlled Substances Act;
- 280 (v) an offense described in Title 58, Chapter 37a, Utah Drug Paraphernalia Act;
- 281 (vi) an offense described in Title 58, Chapter 37b, Imitation Controlled Substances

282 Act;

283 (vii) an offense described in Title 58, Chapter 37c, Utah Controlled Substance

284 Precursor Act; or

285 (viii) an offense described in Title 58, Chapter 37d, Clandestine Drug Lab Act.

286 Section 2. Section **62A-2-121** is amended to read:

287 **62A-2-121. Access to abuse and neglect information.**

288 (1) For purposes of this section:

289 (a) "Direct service worker" is as defined in Section 62A-5-101[~~;~~and].

290 (b) "Personal care attendant" is as defined in Section 62A-3-101.

291 (2) With respect to a licensee, a certified local inspector applicant, a direct service  
292 worker, or a personal care attendant, the department may access only the Licensing Information  
293 System of the Division of Child and Family Services created by Section 62A-4a-1006 and  
294 juvenile court records under Subsection 78-3a-320(6), for the purpose of:

295 (a) (i) determining whether a person associated with a licensee, with direct access to  
296 children:

297 (A) is listed in the Licensing Information System; or

298 (B) has a substantiated finding by a juvenile court of a severe type of child abuse or  
299 neglect under Subsections 78-3a-320(1) and (2); and

300 (ii) informing a licensee that a person associated with the licensee:

301 (A) is listed in the Licensing Information System; or

302 (B) has a substantiated finding by a juvenile court of a severe type of child abuse or  
303 neglect under Subsections 78-3a-320(1) and (2);

304 (b) (i) determining whether a certified local inspector applicant:

305 (A) is listed in the Licensing Information System; or

306 (B) has a substantiated finding by a juvenile court of a severe type of child abuse or  
307 neglect under Subsections 78-3a-320(1) and (2); and

308 (ii) informing a local government that a certified local inspector applicant:

309 (A) is listed in the Licensing Information System; or

310 (B) has a substantiated finding by a juvenile court of a severe type of child abuse or  
311 neglect under Subsections 78-3a-320(1) and (2); [~~or~~]

312 (c) (i) determining whether a direct service worker:

313 (A) is listed in the Licensing Information System; or

314 (B) has a substantiated finding by a juvenile court of a severe type of child abuse or  
315 neglect under Subsections 78-3a-320(1) and (2); and

316 (ii) informing a direct service worker or the direct service worker's employer that the  
317 direct service worker:

318 (A) is listed in the Licensing Information System; or

319 (B) has a substantiated finding by a juvenile court of a severe type of child abuse or  
320 neglect under Subsections 78-3a-320(1) and (2); or

321 (d) (i) determining whether a personal care attendant:

322 (A) is listed in the Licensing Information System; or

323 (B) has a substantiated finding by a juvenile court of a severe type of child abuse or  
324 neglect under Subsections 78-3a-320(1) and (2); and

325 (ii) informing a person described in Subsections 62A-3-101(9)(a)(i) through (iv) that a  
326 personal care attendant:

327 (A) is listed in the Licensing Information System; or

328 (B) has a substantiated finding by a juvenile court of a severe type of child abuse or  
329 neglect under Subsections 78-3a-320(1) and (2).

330 (3) Notwithstanding Subsection (2), the department may access the Division of Child  
331 and Family Service's Management Information System under Section 62A-4a-1003;

332 (a) for the purpose of licensing and monitoring foster parents[-]; and

333 (b) for the purposes described in Subsection 62A-4a-1003(1)(d).

334 (4) After receiving identifying information for a person under Subsection  
335 62A-2-120(1), the department shall process the information for the purposes described in  
336 Subsection (2).

337 (5) The department shall adopt rules under Title 63, Chapter 46a, Utah Administrative

338 Rulemaking Act, consistent with this chapter, defining the circumstances under which a person  
339 may have direct access or provide services to children when:

340 (a) the person is listed in the Licensing Information System of the Division of Child  
341 and Family Services created by Section 62A-4a-1006; or

342 (b) juvenile court records show that a court made a substantiated finding under Section  
343 78-3a-320, that the person committed a severe type of child abuse or neglect.

344 Section 3. Section **62A-4a-710** is enacted to read:

345 **62A-4a-710. Interjurisdictional home study report.**

346 (1) The state of Utah may request a home study report from another state or an Indian  
347 Tribe for purposes of assessing the safety and suitability of placing a child in a home outside of  
348 the jurisdiction of the state of Utah.

349 (2) The state of Utah may not impose any restriction on the ability of a state agency  
350 administering, or supervising the administration of, a state program operated under a state plan  
351 approved under Section 42 U.S.C. 671 to contract with a private agency to conduct a home  
352 study report described in Subsection (1).

353 (3) When the state of Utah receives a home study report described in Subsection (1),  
354 the home study report shall be considered to meet all requirements imposed by the state of Utah  
355 for completion of a home study before a child is placed in a home, unless, within 14 days after  
356 the day on which the report is received, the state of Utah determines, based on grounds that are  
357 specific to the content of the report, that making a decision in reliance on the report would be  
358 contrary to the welfare of the child.

359 Section 4. Section **62A-4a-1003** is amended to read:

360 **62A-4a-1003. Management Information System -- Requirements -- Contents --**  
361 **Purpose -- Access.**

362 (1) (a) The division shall develop and implement a Management Information System  
363 that meets the requirements of this section and the requirements of federal law and regulation.

364 (b) The information and records contained in the Management Information System:

365 (i) are protected records under Title 63, Chapter 2, Government Records Access and

366 Management Act; and

367 (ii) except as provided in ~~[Subsection]~~ Subsections (1)(c) and (d), are available only to  
368 a person with statutory authorization under Title 63, Chapter 2, Government Records Access  
369 and Management Act, to review the information and records described in this Subsection  
370 (1)(b).

371 (c) Notwithstanding Subsection (1)(b)(ii), the information and records described in  
372 Subsection (1)(b)~~[(ii)]~~ are available to a person:

373 (i) as provided under Subsection (6) or Section 62A-4a-1006; or

374 (ii) who has specific statutory authorization to access the information or records for the  
375 purpose of assisting the state with state and federal requirements to maintain information solely  
376 for the purpose of protecting minors and providing services to families in need.

377 (d) Notwithstanding Subsection (1)(b)(ii), the information and records described in  
378 Subsection (1)(b) may, to the extent required by Title IV-B or IV-E of the Social Security Act,  
379 be provided by the division:

380 (i) to comply with child abuse and neglect registry checks requested by other states;  
381 and

382 (ii) to the United States Department of Health and Human Services for purposes of  
383 maintaining an electronic national registry of substantiated cases of child abuse and neglect.

384 (2) With regard to all child welfare cases, the Management Information System shall  
385 provide each caseworker and the department's office of licensing, exclusively for the purposes  
386 of foster parent licensure and monitoring, with a complete history of each child in that worker's  
387 caseload, including:

388 (a) a record of all past action taken by the division with regard to that child and the  
389 child's siblings;

390 (b) the complete case history and all reports and information in the control or keeping  
391 of the division regarding that child and the child's siblings;

392 (c) the number of times the child has been in the custody of the division;

393 (d) the cumulative period of time the child has been in the custody of the division;

- 394 (e) a record of all reports of abuse or neglect received by the division with regard to  
395 that child's parent, parents, or guardian including:
- 396 (i) for each report, documentation of the:
- 397 (A) latest status; or
- 398 (B) final outcome or determination; and
- 399 (ii) information that indicates whether each report was found to be:
- 400 (A) supported;
- 401 (B) unsupported;
- 402 (C) substantiated by a juvenile court;
- 403 (D) unsubstantiated by a juvenile court; or
- 404 (E) without merit;
- 405 (f) the number of times the child's parent or parents failed any child and family plan;
- 406 and
- 407 (g) the number of different caseworkers who have been assigned to that child in the  
408 past.
- 409 (3) The division's Management Information System shall:
- 410 (a) contain all key elements of each family's current child and family plan, including:
- 411 (i) the dates and number of times the plan has been administratively or judicially  
412 reviewed;
- 413 (ii) the number of times the parent or parents have failed that child and family plan;
- 414 and
- 415 (iii) the exact length of time the child and family plan has been in effect; and
- 416 (b) alert caseworkers regarding deadlines for completion of and compliance with  
417 policy, including child and family plans.
- 418 (4) With regard to all child protective services cases, the Management Information  
419 System shall:
- 420 (a) monitor the compliance of each case with:
- 421 (i) division rule and policy;

422 (ii) state law; and

423 (iii) federal law and regulation; and

424 (b) include the age and date of birth of the alleged perpetrator at the time the abuse or  
425 neglect is alleged to have occurred, in order to ensure accuracy regarding the identification of  
426 the alleged perpetrator.

427 (5) Except as provided in Subsection (6) regarding contract providers and Section  
428 62A-4a-1006 regarding limited access to the Licensing Information System, all information  
429 contained in the division's Management Information System is available to the department,  
430 upon the approval of the executive director, on a need-to-know basis.

431 (6) (a) Subject to this Subsection (6), the division may allow its contract providers,  
432 court clerks designated by the Administrative Office of the Courts, and the Office of the  
433 Guardian Ad Litem to have limited access to the Management Information System.

434 (b) A division contract provider has access only to information about a person who is  
435 currently receiving services from that specific contract provider.

436 (c) (i) Designated court clerks may only have access to information necessary to  
437 comply with Subsection 78-3h-102(2).

438 (ii) The Office of the Guardian Ad Litem may access only the information that:

439 (A) relates to children and families where the Office of the Guardian Ad Litem is  
440 appointed by a court to represent the interests of the children; and

441 (B) except as provided in Subsection (6)(d), is entered into the Management  
442 Information System on or after July 1, 2004.

443 (d) Notwithstanding Subsection (6)(c)(ii)(B), the Office of the Guardian Ad Litem  
444 shall have access to all child abuse and neglect referrals about children and families where the  
445 office has been appointed by a court to represent the interests of the children, regardless of the  
446 date that the information is entered into the Management Information System.

447 (e) Each contract provider and designated representative of the Office of the Guardian  
448 Ad Litem who requests access to information contained in the Management Information  
449 System shall:

450 (i) take all necessary precautions to safeguard the security of the information contained  
451 in the Management Information System;

452 (ii) train its employees regarding:

453 (A) requirements for protecting the information contained in the Management  
454 Information System as required by this chapter and under Title 63, Chapter 2, Government  
455 Records Access and Management Act; and

456 (B) the criminal penalties under Sections 62A-4a-412 and 63-2-801 for improper  
457 release of information; and

458 (iii) monitor its employees to ensure that they protect the information contained in the  
459 Management Information System as required by law.

460 (f) The division shall take reasonable precautions to ensure that its contract providers  
461 comply with the requirements of this Subsection (6).

462 (7) The division shall take all necessary precautions, including password protection and  
463 other appropriate and available technological techniques, to prevent unauthorized access to or  
464 release of information contained in the Management Information System.

465 Section 5. Section **62A-5-103.5** is amended to read:

466 **62A-5-103.5. Disbursal of public funds -- Background check of a direct service**  
467 **worker.**

468 (1) For purposes of this section:

469 (a) "directly supervised" means that the person being supervised is under the  
470 uninterrupted visual and auditory surveillance of the person doing the supervising; and

471 (b) "office" is as defined in Section 62A-2-101.

472 (2) Subject to Subsection (4), public funds may not be disbursed to pay a direct service  
473 worker for personal services rendered to a person, unless:

474 (a) subject to Subsection (5), the direct service worker is approved by the office to have  
475 direct access and provide services to children or vulnerable adults pursuant to Section  
476 62A-2-120;

477 (b) except as provided in Subsection (5):

478 (i) during the time that the direct service worker renders the services described in this  
479 Subsection (2), the direct service worker who renders the services is directly supervised by a  
480 direct service worker who is approved by the office to have direct access and provide services  
481 to children or vulnerable adults pursuant to Section 62A-2-120;

482 (ii) the direct service worker who renders the services described in this Subsection (2)  
483 has submitted the information required for a background check pursuant to Section 62A-2-120;  
484 and

485 (iii) the office has not determined whether to approve the direct service worker  
486 described in Subsection (2)(b)(ii) to have direct access and provide services to children or  
487 vulnerable adults; or

488 (c) except as provided in Subsection (5), the direct service worker:

489 (i) (A) is a direct ancestor or descendent of the person to whom the services are  
490 rendered, but is not the person's parent;

491 (B) is the aunt, uncle, or sibling of the person to whom the services are rendered; or

492 (C) (I) has submitted the information required for a background check pursuant to  
493 Section 62A-2-120; and

494 (II) the office has not determined whether to approve the direct service worker to have  
495 direct access and provide services to children or vulnerable adults; and

496 (ii) is not listed in:

497 (A) the Licensing Information System of the Division of Child and Family Services  
498 created by Section 62A-4a-1006;

499 (B) the statewide database of the Division of Aging and Adult Services created by  
500 Section 62A-3-311.1 as having a substantiated finding of abuse, neglect, or exploitation; or

501 (C) juvenile court records as having a substantiated finding under Section 78-3a-320  
502 that the direct service worker committed a severe type of child abuse or neglect.

503 (3) For purposes of Subsection (2), the office shall conduct a background check of a  
504 direct service worker:

505 (a) except as provided in Subsection (2)(b) or (c), before public funds are disbursed to

506 pay the direct service worker for the personal services described in Subsection (2); and

507 (b) using the same procedures established for a background check of an applicant for  
508 an initial license under Section 62A-2-120.

509 (4) The background check and the approval determination described in this section  
510 shall be conducted for a direct service worker on an annual basis.

511 (5) Notwithstanding any other provision of this section, a child who is in the legal  
512 custody of the department or any of the department's divisions may not be placed with a direct  
513 service worker unless, before the child is placed with the direct service worker, the direct  
514 service worker passes a background check, pursuant to the requirements of Section 62A-2-120,  
515 that includes:

516 (a) submitting the direct service worker's fingerprints for an FBI national criminal  
517 history records check, through the Criminal Investigations and Technical Services Division;

518 (b) checking the child abuse and neglect registry in each state where the direct service  
519 worker resided in the five years immediately preceding the day on which the direct service  
520 worker applied to be a direct service worker; and

521 (c) checking the child abuse and neglect registry in each state where each adult living  
522 in the home where the child will be placed resided in the five years immediately preceding the  
523 day on which the direct service worker applied to be a direct service worker.

524 Section 6. Section **78-3a-307.1** is amended to read:

525 **78-3a-307.1. Criminal background checks necessary prior to out-of-home**  
526 **placement.**

527 (1) Upon ordering removal of a child from the custody of [~~his~~] the child's parent and  
528 placing that child in the custody of the Division of Child and Family Services, [~~and~~] prior to  
529 the division's placement of that child in out-of-home care, the court shall require the  
530 completion of a background check by the Utah Bureau of Criminal Identification regarding the  
531 proposed placement.

532 (2) (a) The Division of Child and Family Services and the Office of the Guardian ad  
533 Litem Director may request, or the court upon its own motion may order, the Department of

534 Public Safety to conduct a complete Federal Bureau of Investigation criminal background  
535 check through the national criminal history system (NCIC).

536 (b) Upon request by the Division of Child and Family Services or the Office of the  
537 Guardian ad Litem Director, or upon the court's order, persons subject to the requirements of  
538 Subsection (1) shall submit fingerprints and shall be subject to an FBI fingerprint background  
539 check. The child may be temporarily placed, pending the outcome of that background check.

540 (c) The cost of those investigations shall be borne by whoever is to receive placement  
541 of the child, except that the Division of Child and Family Services may pay all or part of the  
542 cost of those investigations if the person with whom the child is to be placed is unable to pay.

543 (3) Notwithstanding any other provision of this section, except as otherwise permitted  
544 by federal law or rule, a child who is in the legal custody of the state may not be placed with a  
545 prospective foster parent or a prospective adoptive parent, unless, before the child is placed  
546 with the prospective foster parent or the prospective adoptive parent:

547 (a) a fingerprint based FBI national criminal history records check is conducted on the  
548 prospective foster parent or prospective adoptive parent and each adult living in the home of  
549 the prospective foster parent or prospective adoptive parent;

550 (b) the Department of Human Services conducts a check of the child abuse and neglect  
551 registry in each state where the prospective foster parent or prospective adoptive parent resided  
552 in the five years immediately preceding the day on which the prospective foster parent or  
553 prospective adoptive parent applied to be a foster parent or adoptive parent, to determine  
554 whether the prospective foster parent or prospective adoptive parent is listed in the registry as  
555 having a substantiated or supported finding of child abuse or neglect;

556 (c) the Department of Human Services conducts a check of the child abuse and neglect  
557 registry of each state where each adult living in the home of the prospective foster parent or  
558 prospective adoptive parent described in Subsection (3)(b) resided in the five years  
559 immediately preceding the day on which the prospective foster parent or prospective adoptive  
560 parent applied to be a foster parent or adoptive parent, to determine whether the adult is listed  
561 in the registry as having a substantiated or supported finding of child abuse or neglect; and

562           (d) each person required to undergo a background check described in this Subsection  
563 (3) passes the background check, pursuant to the provisions of Section 62A-2-120.

564           Section 7. Section **78-3a-312** is amended to read:

565           **78-3a-312. Permanency hearing -- Final plan -- Petition for termination of**  
566 **parental rights filed -- Hearing on termination of parental rights.**

567           (1) (a) When reunification services have been ordered in accordance with Section  
568 78-3a-311, with regard to a minor who is in the custody of the Division of Child and Family  
569 Services, a permanency hearing shall be held by the court no later than 12 months after the  
570 original removal of the minor.

571           (b) If reunification services were not ordered at the dispositional hearing, a permanency  
572 hearing shall be held within 30 days from the date of the dispositional hearing.

573           (2) (a) If reunification services were ordered by the court in accordance with Section  
574 78-3a-311, the court shall, at the permanency hearing, determine, consistent with Subsection  
575 (3), whether the minor may safely be returned to the custody of the minor's parent.

576           (b) If the court finds, by a preponderance of the evidence, that return of the minor  
577 would create a substantial risk of detriment to the minor's physical or emotional well-being, the  
578 minor may not be returned to the custody of the minor's parent.

579           (c) Prima facie evidence that return of the minor to a parent or guardian would create a  
580 substantial risk of detriment to the minor is established if the parent or guardian fails to:

- 581           (i) participate in a court approved child and family plan;
- 582           (ii) comply with a court approved child and family plan in whole or in part; or
- 583           (iii) meet the goals of a court approved child and family plan.

584           (3) In making a determination under Subsection (2)(a), the court shall review and  
585 consider:

- 586           (a) the report prepared by the Division of Child and Family Services;
- 587           (b) any admissible evidence offered by the minor's guardian ad litem;
- 588           (c) any report prepared by a foster care citizen review board pursuant to Section  
589 78-3g-103;

590 (d) any evidence regarding the efforts or progress demonstrated by the parent; and

591 (e) the extent to which the parent cooperated and availed himself of the services  
592 provided.

593 (4) (a) With regard to a case where reunification services were ordered by the court, if  
594 a minor is not returned to the minor's parent or guardian at the permanency hearing, the court  
595 shall:

596 (i) order termination of reunification services to the parent;

597 (ii) make a final determination regarding whether termination of parental rights,  
598 adoption, or permanent custody and guardianship is the most appropriate final plan for the  
599 minor, taking into account the minor's primary permanency goal established by the court  
600 pursuant to Section 78-3a-311; and

601 (iii) establish a concurrent plan that identifies the second most appropriate final plan  
602 for the minor.

603 (b) If the Division of Child and Family Services documents to the court that there is a  
604 compelling reason that adoption, reunification, guardianship, and kinship placement are not in  
605 the minor's best interest, the court may order another planned permanent living arrangement, in  
606 accordance with federal law.

607 (c) If the minor clearly desires contact with the parent, the court shall take the minor's  
608 desire into consideration in determining the final plan.

609 (d) Consistent with Subsection (4)(e), the court may not extend reunification services  
610 beyond 12 months from the date the minor was initially removed from the minor's home, in  
611 accordance with the provisions of Section 78-3a-311, except that the court may extend  
612 reunification services for no more than 90 days if the court finds that:

613 (i) there has been substantial compliance with the child and family plan;

614 (ii) reunification is probable within that 90-day period; and

615 (iii) the extension is in the best interest of the minor.

616 (e) (i) In no event may any reunification services extend beyond 15 months from the  
617 date the minor was initially removed from the minor's home.

618           (ii) Delay or failure of a parent to establish paternity or seek custody does not provide a  
619 basis for the court to extend services for that parent beyond that 12-month period.

620           (f) The court may, in its discretion:

621           (i) enter any additional order that it determines to be in the best interest of the minor,  
622 so long as that order does not conflict with the requirements and provisions of Subsections  
623 (4)(a) through (e); or

624           (ii) order the division to provide protective supervision or other services to a minor and  
625 the minor's family after the division's custody of a minor has been terminated.

626           (5) If the final plan for the minor is to proceed toward termination of parental rights,  
627 the petition for termination of parental rights shall be filed, and a pretrial held, within 45  
628 calendar days after the permanency hearing.

629           (6) (a) Any party to an action may, at any time, petition the court for an expedited  
630 permanency hearing on the basis that continuation of reunification efforts are inconsistent with  
631 the permanency needs of the minor.

632           (b) If the court so determines, it shall order, in accordance with federal law, that:

633           (i) the minor be placed in accordance with the permanency plan; and

634           (ii) whatever steps are necessary to finalize the permanent placement of the minor be  
635 completed as quickly as possible.

636           (7) Nothing in this section may be construed to:

637           (a) entitle any parent to reunification services for any specified period of time;

638           (b) limit a court's ability to terminate reunification services at any time prior to a  
639 permanency hearing; or

640           (c) limit or prohibit the filing of a petition for termination of parental rights by any  
641 party, or a hearing on termination of parental rights, at any time prior to a permanency hearing.

642           (8) (a) Subject to Subsection (8)(b), if a petition for termination of parental rights is  
643 filed prior to the date scheduled for a permanency hearing, the court may consolidate the  
644 hearing on termination of parental rights with the permanency hearing.

645           (b) For purposes of Subsection (8)(a), if the court consolidates the hearing on

646 termination of parental rights with the permanency hearing:

647 (i) the court shall first make a finding regarding whether reasonable efforts have been  
648 made by the Division of Child and Family Services to finalize the permanency goal for the  
649 minor; and

650 (ii) any reunification services shall be terminated in accordance with the time lines  
651 described in Section 78-3a-311.

652 (c) A decision on a petition for termination of parental rights shall be made within 18  
653 months from the day on which the minor is removed from the minor's home.

654 (9) If a court determines that a child will not be returned to a parent of the child, the  
655 court shall consider appropriate placement options inside and outside of the state.

656 Section 8. Section **78-3a-314** is amended to read:

657 **78-3a-314. All proceedings -- Persons entitled to be present.**

658 (1) A child who is the subject of a juvenile court hearing, any person entitled to notice  
659 pursuant to Section 78-3a-306 or 78-3a-309, preadoptive parents, foster parents, and any  
660 relative providing care for the child, are:

661 (a) entitled to notice[;] of, and to be present at, each hearing and proceeding held under  
662 this part, including administrative and citizen reviews[;]; and [are entitled to an opportunity to  
663 be heard.]

664 ~~[(2) Because the child's foster parents have the right to notice, pursuant to Section~~  
665 ~~78-3a-309, they have the right to be present at each and every hearing held under this part~~  
666 ~~including administrative and citizen reviews, and are entitled to an opportunity to be heard.]~~

667 (b) have a right to be heard at each hearing and proceeding described in Subsection  
668 (1)(a).

669 ~~[(3)]~~ (2) A child shall be represented at each hearing by the guardian ad litem  
670 appointed to ~~[his]~~ the child's case by the court. The child has a right to be present at each  
671 hearing, subject to the discretion of the guardian ad litem or the court regarding any possible  
672 detriment to the child.

673 ~~[(4)]~~ (3) (a) The parent or guardian of a child who is the subject of a petition under this

674 part has the right to be represented by counsel, and to present evidence, at each hearing.

675 (b) When it appears to the court that a parent or guardian of the child desires counsel  
676 but is financially unable to afford and cannot for that reason employ counsel, and the child has  
677 been placed in out-of-home care, or the petitioner is recommending that the child be placed in  
678 out-of-home care, the court shall appoint counsel.

679 [~~(5)~~] (4) In every abuse, neglect, or dependency proceeding under this chapter, the  
680 court shall order that the child be represented by a guardian ad litem, in accordance with  
681 Section 78-3a-912. The guardian ad litem shall represent the best interest of the child, in  
682 accordance with the requirements of that section, at the shelter hearing and at all subsequent  
683 court and administrative proceedings, including any proceeding for termination of parental  
684 rights in accordance with Part 4, Termination of Parental Rights Act.

685 [~~(6)~~] (5) Notwithstanding any other provision of law, counsel for all parties to the  
686 action shall be given access to all records, maintained by the division or any other state or local  
687 public agency, that are relevant to the abuse, neglect, or dependency proceeding under this  
688 chapter. If the natural parent of a child is representing himself, [~~he~~] the natural parent shall  
689 have access to those records. The above disclosures are not required in the following  
690 circumstances:

691 (a) The division or other state or local public agency did not originally create the record  
692 being requested. In those circumstances, the person making the request under this section shall  
693 be informed of the following:

- 694 (i) the existence of all records in the possession of the division or any other state or  
695 local public agency;
- 696 (ii) the name and address of the person or agency that originally created the record; and
- 697 (iii) that [~~he~~] the person must seek access to the record from the person or agency that  
698 originally created the record.

699 (b) Disclosure of the record would jeopardize the life or physical safety of a child who  
700 has been a victim of child abuse or neglect, or any person who provided substitute care for the  
701 child.

702 (c) Disclosure of the record would jeopardize the anonymity of the person or persons  
703 making the initial report of abuse or neglect or any others involved in the subsequent  
704 investigation.

705 (d) Disclosure of the record would jeopardize the life or physical safety of a person  
706 who has been a victim of domestic violence.

707 [~~(7)~~] (6) (a) The appropriate foster care citizen review board shall be given access to all  
708 records, maintained by the division or any other state or local public agency, that are relevant to  
709 an abuse, neglect, or dependency proceeding under this chapter.

710 (b) Representatives of the appropriate foster care citizen review board are entitled to be  
711 present at each hearing held under this part, but notice is not required to be provided.

712 Section 9. Section **78-30-3.5** is amended to read:

713 **78-30-3.5. Preplacement and postplacement adoptive evaluations -- Exceptions.**

714 (1) (a) Except as otherwise provided in this section, a child may not be placed in an  
715 adoptive home until a preplacement adoptive evaluation, assessing the prospective adoptive  
716 parent and the prospective adoptive home, has been conducted in accordance with the  
717 requirements of this section.

718 (b) [~~The~~] Except as provided in Subsection (8), the court may, at any time, authorize  
719 temporary placement of a child in a potential adoptive home pending completion of a  
720 preplacement adoptive evaluation described in this section.

721 (c) Subsection (1)(a) does not apply if a birth parent has legal custody of the child to be  
722 adopted and the prospective adoptive parent is related to that child as a step-parent, sibling by  
723 half or whole blood or by adoption, grandparent, aunt, uncle, or first cousin, unless the  
724 evaluation is otherwise requested by the court. The prospective adoptive parent described in  
725 this Subsection (1)(c) shall, however, obtain the information described in Subsections (2)(a)  
726 and (b), and file that documentation with the court prior to finalization of the adoption.

727 (d) The required preplacement adoptive evaluation must be completed or updated  
728 within the 12-month period immediately preceding the placement of a child with the  
729 prospective adoptive parent. If the prospective adoptive parent has previously received custody

730 of a child for the purpose of adoption, the preplacement adoptive evaluation must be completed  
731 or updated within the 12-month period immediately preceding the placement of a child with the  
732 prospective adoptive parent and after the placement of the previous child with the prospective  
733 adoptive parent.

734 (2) The preplacement adoptive evaluation shall include:

735 (a) criminal history record information regarding each prospective adoptive parent and  
736 any other adult living in the prospective home, prepared by [~~the Criminal Investigations and~~  
737 ~~Technical Services Division of the Department of Public Safety, in accordance with Section~~  
738 ~~53-10-108~~] a law enforcement agency based on a fingerprint criminal history check, no earlier  
739 than 18 months immediately preceding placement of the child;

740 (b) a report prepared by the Department of Human Services containing all information  
741 regarding reports and investigation of child abuse, neglect, and dependency, with respect to  
742 each prospective adoptive parent and any other adult living in the prospective home, obtained  
743 no earlier than 18 months immediately preceding placement of the child, pursuant to waivers  
744 executed by those parties;

745 (c) an evaluation conducted by an expert in family relations approved by the court or a  
746 certified social worker, clinical social worker, marriage and family therapist, psychologist,  
747 professional counselor, or other court-determined expert in family relations, who is licensed to  
748 practice under the laws of this state or under the laws of the state where the prospective  
749 adoptive parent or other person living in the prospective adoptive home resides. The  
750 evaluation shall be in a form approved by the Department of Human Services. Neither the  
751 Department of Human Services nor any of its divisions may proscribe who qualifies as an  
752 expert in family relations or who may conduct evaluations pursuant to this Subsection (2); and

753 (d) if the child to be adopted is a child who is in the custody of any public child welfare  
754 agency, and is a child with special needs as defined in Subsection 62A-4a-902(2), the  
755 preplacement evaluation must be conducted by the Department of Human Services or a  
756 licensed child placing agency which has entered into a contract with the department to conduct  
757 the preplacement evaluations for children with special needs. Any fee assessed by the

758 evaluating agency is the responsibility of the adopting parent or parents.

759 (3) The person or agency conducting the preplacement adoptive evaluation shall, in  
760 connection with the evaluation, provide the prospective adoptive parent or parents with  
761 literature approved by the Division of Child and Family Services relating to adoption, and  
762 including information relating to the adoption process, developmental issues that may require  
763 early intervention, and community resources that are available to the adoptive parent or parents.

764 (4) A copy of the preplacement adoptive evaluation shall be filed with the court.

765 (5) (a) Except as provided in Subsections (5)(b) and (c), a postplacement evaluation  
766 shall be conducted and submitted to the court prior to the final hearing in an adoption  
767 proceeding. The postplacement evaluation shall include:

- 768 (i) verification of the allegations of fact contained in the petition for adoption;
- 769 (ii) an evaluation of the progress of the child's placement in the adoptive home; and
- 770 (iii) a recommendation regarding whether the adoption is in the best interest of the  
771 child.

772 (b) The exemptions from and requirements for evaluations, described in Subsections  
773 (1)(c), (2)(c), and (3), also apply to postplacement adoptive evaluations.

774 (c) Upon the request of the petitioner, the court may waive the postplacement adoptive  
775 evaluation, unless it determines that it is in the best interest of the child to require the  
776 postplacement evaluation. Except where the child to be adopted and the prospective parent are  
777 related as set forth in Subsection (1)(c), the court may waive the postplacement adoptive  
778 evaluation for a child with special needs as defined in Section 62A-4a-902.

779 (6) If the person or agency conducting the evaluation disapproves the adoptive  
780 placement, either in the preplacement or postplacement adoptive evaluation, the court may  
781 dismiss the petition. However, upon request of a prospective adoptive parent, the court shall  
782 order that an additional preplacement or postplacement adoptive evaluation be conducted, and  
783 hold a hearing on the suitability of the adoption, including testimony of interested parties.

784 (7) Prior to finalization of a petition for adoption the court shall review and consider  
785 the information and recommendations contained in the preplacement and postplacement

786 adoptive studies required by this section.

787 (8) Notwithstanding any other provision of this section, except as otherwise permitted  
788 by federal law or rule, a child who is in the legal custody of the state may not be placed with a  
789 prospective foster parent or a prospective adoptive parent, unless, before the child is placed  
790 with the prospective foster parent or the prospective adoptive parent:

791 (a) a fingerprint based FBI national criminal history records check is conducted on the  
792 prospective foster parent or prospective adoptive parent and each adult living in the home of  
793 the prospective foster parent or prospective adoptive parent;

794 (b) the Department of Human Services conducts a check of the child abuse and neglect  
795 registry in each state where the prospective foster parent or prospective adoptive parent resided  
796 in the five years immediately preceding the day on which the prospective foster parent or  
797 prospective adoptive parent applied to be a foster parent or adoptive parent, to determine  
798 whether the prospective foster parent or prospective adoptive parent is listed in the registry as  
799 having a substantiated or supported finding of child abuse or neglect;

800 (c) the Department of Human Services conducts a check of the child abuse and neglect  
801 registry of each state where each adult living in the home of the prospective foster parent or  
802 prospective adoptive parent described in Subsection (8)(b) resided in the five years  
803 immediately preceding the day on which the prospective foster parent or prospective adoptive  
804 parent applied to be a foster parent or adoptive parent, to determine whether the adult is listed  
805 in the registry as having a substantiated or supported finding of child abuse or neglect; and

806 (d) each person required to undergo a background check described in this Subsection  
807 (8) passes the background check, pursuant to the provisions of Section 62A-2-120.

808 Section 10. Section **78-30-3.6** is amended to read:

809 **78-30-3.6. Prospective parent not a resident -- Preplacement requirements.**

810 (1) When an adoption petition is to be finalized in this state with regard to any  
811 prospective adoptive parent who is not a resident of this state at the time a child is placed in  
812 that person's home, the potential adoptive parent shall:

813 (a) comply with the provisions of Section 78-30-3.5; and

814 (b) submit fingerprints for a Federal Bureau of Investigation national criminal history  
815 record check.

816 (2) The fingerprints referenced in Subsection (1)(b) shall be submitted to the Federal  
817 Bureau of Investigation either:

818 (a) through the Criminal Investigations and Technical Services Division of the  
819 Department of Public Safety in accordance with the provisions of Section 62A-2-120; or

820 (b) if the prospective adoptive parent is pursuing the adoption with a private attorney,  
821 the request shall be submitted to the Federal Bureau of Investigation as a personal records  
822 check, in accordance with procedures established by the Criminal Investigations and Technical  
823 Services Division of the Department of Public Safety.

824 (3) In addition to the other requirements of this section, before a child in state custody  
825 is placed with a prospective foster parent or a prospective adoptive parent, the Department of  
826 Human Services shall comply with Subsections 78-30-3.5(8)(a) through (d).